HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:27733 OF 2007

Dated:26.12.2007

Between:

M/s. Karthikeya Corporation,
Kesamudram, Warangal District,
Rep., by its Proprietor P. Appa Rao.

..Petitioner

And

1. The C.T.O., Mahabubabad
   Circle, Warangal District and others.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:27733 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to quash the order dated 23.11.2007 passed by the 3rd respondent refusing to grant stay of collection of balance disputed tax pending disposal of the appeal before the Sales Tax Appellate Tribunal, as illegal and arbitrary and consequently, to restrain the 1st respondent from taking any coercive steps for recovery of the balance disputed tax pending disposal of the appeal.

The main grievance of the petitioner is that aggrieved by the order passed by the 2nd respondent, the petitioner preferred an appeal before the Sales Tax Appellate Tribunal. The petitioner has filed an application before the 3r d respondent seeking stay of collection of balance disputed tax pending disposal of the appeal. But the said application was rejected. Having aggrieved by the same, the present writ petition has been filed by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that the appeal as to the assessment order is pending before the Sales Tax Appellate Tribunal and the petitioner has already paid 50% of the disputed tax and at this juncture, if the relief of stay is not entertained

and if the recovery is effected, the very purpose of filing the appeal would be defeated.

In the facts and circumstances of the case and in view of the submission that the petitioner has already paid 50% of the disputed tax and in view of the fact that the appeal is pending before the Sales tax Appellate Tribunal, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted.

Accordingly, there shall be stay of recovery of the balance disputed tax pending disposal of the appeal before the Tribunal.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 26th December, 2007

Note:
Issue C.C. by Monday.
(BO)
Nn/Gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:27733 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

26/12/2007